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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,432	08/10/2001	Robert Glen McCracken	8594560/77800	6408

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DES MOINES, IA 50309-3993

EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 09/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/927,432

Applicant(s)

MCCRACKEN ET AL.

Examiner

M. Safavi

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See attached sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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NOTE: Contd. Proposed amendments to each of claims 1, 3, 4, 5, and 8 require further consideration if not search. What, for example, is being defined by "...received in sliding engagement perpendicular to the shoring post to the base plate of the shoring post"? What, specifically, is meant by "perpendicular to the shoring post to the base plate"? And, is claim 1, as proposed, directed to a U-head assembly per se or a U-head assembly attached to a notched base plate of a shoring post apparatus? See, as well, proposed claim 8 and newly added language thereto.

Box 3: Contd. Applicants' arguments with respect to the rejection of claims 1-8 under 35 U.S.C. 112, first paragraph is found to be persuasive. Therefore, the rejection of claims 1-8 under 35 U.S.C. 112, first paragraph is hereby withdrawn.

Box 5: Contd. Applicant's arguments filed with the after final response have been fully considered but are not persuasive. Each of Markham and Abraham et al. disclose "a latch providing for hand releasable attachment" since each of elements 14 of Markham and 70 of Abraham et al. can be operated by hand. Applicants argue the Markham patent discloses no opposing L-shaped extensions "of the type disclosed in the present application". However, whether or not the applied prior art shows specifically what is shown by the applicant is not at issue. The applied prior art merely needs to read upon the language recited in the rejected claims. Otherwise, the language of the rejected claims appears directed to a U-head assembly per se and

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as such, arguments to "slid on the shoring post in a horizontal direction" do not serve to overcome the applied rejections involving either of Markham and 70 or Abraham et al. As for applicants' argument to "latch", the definition of latch recited in the final Office action is not Examiner's but had been taken from Webster's II, New College dictionary. Indeed, a latch is a fastener serving to hold elements together.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
September 3, 2003